

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

v.

Case No. 05-80955-34
Hon: AVERN COHN

WAYNE DARNELL JOYNER,

Defendant/Petitioner.

ORDER
REGARDING DEFENDANT'S MOTION FOR AMENDMENT OF JUDGMENT

This is a criminal case. On August 21, 2008, defendant was sentenced to a custody term of 168 months on his plea of guilty to violations of 21 USC §§841(a)(1), 841(b)(1)(A)(ii)(II) and 846. On August 7, 2009, defendant filed a motion to vacate under 28 U.S.C. § 2255. Defendant raised three claims: 1) he is innocent because the Court dismissed the counts he pled guilty to; (2) he received ineffective assistance of counsel because his counsel failed to present documents which would have shown that he had diplomatic immunity; and (3) the Court is not a proper Article III court.

The Court denied the motion under §2255 for the reasons stated in the government's response. See Order filed September 25, 2009.

On October 6, 2009, defendant filed a "Motion to the Clerk" and the instant "Motion for Amendment of Judgment." In the Motion to the Clerk, defendant said he did not receive a copy of the government's response and requested a copy be mailed to him. The Court granted the motion on October 14, 2009 and directed a copy of the

government's response be mailed to defendant. See Order filed October 14, 2009.

In the Motion for Amendment of Judgment, defendant asks the Court to "reconsider" denying his motion under § 2255 and again states he did not receive a copy of the government's response.

In light of the above, the Court will construe defendant's Motion for Amendment of Judgment as a motion for reconsideration. Defendant shall have ten (10) days from receipt of the government's response to file a brief in support of his motion for reconsideration, explaining why his § 2255 motion has merit.

SO ORDERED.

s/ Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: October 15, 2009

I hereby certify that a copy of the foregoing document was mailed to Wayne Darnell Joyner, #40683-039, FCI Lompoc, 3600 Guard Road, Lompoc, CA 93436 and the attorneys of record on this date, October 15, 2009, by electronic and/or ordinary mail.

s/ Julie Owens
Case Manager, (313) 234-5160